

Caleb L. McGillvary, Pro Se
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RECEIVED

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AT 8:30 M
CLERK, U.S. DISTRICT COURT - DNJ

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY) CIVIL ACTION NO.
PLAINTIFF) 3:22-cv-06430-MAS-JBD
) Hon. Michael A. Shipp, U.S.D.J.
V.) Hon. J. Brendan Day, U.S.M.J.
) Motion Date:
RAHMO REIZ) June 2, 2025
DEFENDANT)

NOTICE OF MOTION TO SEAL

TO: CLERK, ALL CAPTIONED PARTIES

Please take notice that, on November 18, 2024, at the US District Court - DNJ US Courthouse 4th & Cooper Sts. Camden, NJ 08101, Plaintiff Caleb L. McGillvary ("Plaintiff") will move the Court under the provisions of Fed. R. Civ. P. 5.3 and DNJ L. Civ. R. 5.3 for an order sealing Exhibits A to C attached to the motion for contempt against NJDOC in the above-captioned matter.

As grounds for this motion, Plaintiff relies upon his Motion and attached Declaration in support of this motion.

A proposed form of order is attached.

Date: 5/11/25


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DECLARATION IN SUPPORT OF MOTION TO SEAL

I, Caleb L. McGillvary ("Plaintiff"), hereby declare pursuant to 28 U.S.C. 1746 the following:

1.) I am the pro se plaintiff in the above-captioned matter.

2.) The documents attached to my declaration in support of my motion for contempt against NJDOC as Exhibits A to C are each and all HIPAA-protected medical records which concern my dental health, and are confidential under federal law.

3.) For the foregoing reasons, I request the Court to order that Exhibits A to C be permanently sealed, to comply with federal HIPAA law.

I declare under penalty of perjury that all documents attached hereto are true and accurate copies of the originals.

I declare under penalty of perjury that the foregoing statements are true and accurate.

Executed this 1st day of May, 2025 *[Signature]*

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MOTION TO SEAL

Caleb L. McGillvary ("Plaintiff"), hereby moves the Court pursuant to Fed. R. Civ. P. 5.3 and DNJ L. Civ. R. 5.3 for an order directing that the HIPAA-protected mental health records filed herewith as Exhibits A to C be permanently sealed.

As grounds for this request, Plaintiff relies upon his attached declaration, which attests that the documents filed herewith as Exhibits A to C are medical records produced by dental health professionals concerning Plaintiff's dental health diagnosis and treatment, and are thus protected under HIPAA.

Under HIPAA, Plaintiff's dental health records are entitled to confidentiality. Under DNJ L. Civ. R. 5.3(a)(3), the documents at issue "must be sealed pursuant to [HIPAA statutes] or other laws" as a matter of course; and no further proceedings to seal are necessary. Notwithstanding this provision, Plaintiff

advances the following grounds in comportment with DNJ L. Civ. R. 5.3(c)(3):

a.) The materials at issue are confidential medical records, protected by HIPAA. This is an action under the 8th Amendment of the Constitution and 42 U.S.C. 1983 with pendent NJ State law claims;

b.) Plaintiff's private interest in his dental health records is vested in him by HIPAA. The public interest in the doctor-patient privilege is enshrined in the Federal rules of evidence; F.R.E. 601 et seq.;

c.) If Plaintiff's dental health records are publically disseminated, his doctor-patient privilege will be immediately and irreparably breached;

d.) Any less restrictive relief will fail to preserve the doctor-patient privilege, which will cause harm to the aforementioned public and private interests;

e.) There has been no prior order sealing the materials in this action;

f.) Plaintiff is unaware of any party or nonparty objecting to the sealing of the documents at issue in this request.

g.) There are no materials subject to an objection;

h.) There could be no basis for an objection;

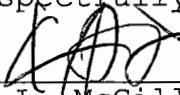
i.) This material was not previously sealed in the pending action.

Conclusion

The documents at issue in this motion are HIPAA-protected medical records. They are dental health records which are subject to the doctor-patient privilege. This Court should therefore seal Exhibits A to C permanently, in accordance with these important laws.

Date: 5/11/25

Respectfully Submitted,


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ORDER

THIS MATTER having been opened to the Court on motion to seal by Plaintiff Caleb L. McGillvary for an order permanently sealing his Dental health records filed under seal as Exhibits A to C, and the Court having considered the papers submitted and the arguments therein, and FOR GOOD CAUSE SHOWN

It is on this _____ Day of _____, 20_____

ORDERED that Plaintiff's motion is hereby GRANTED; and it is further

ORDERED that the documents filed as Exhibits A to C under seal in this matter, attached to the accompanying motion for temporary restraining order and for preliminary injunction are designated HIPAA-protected medical records and for that reason are PERMANENTLY SEALED; and it is further

ORDERED that the Court adopts the following findings of fact and conclusions of law:

1.) The documents attached to Plaintiff Caleb L. McGillvary's declaration in support of his motion for contempt against NJDOC as Exhibits A to C are each and all HIPAA-protected medical records which concern his dental health, and are confidential under federal law; and

2.) Those same documents are required by federal law to be sealed permanently; and it is further

ORDERED that a copy of this order be served by the Clerk upon all parties appearing in this matter within 7 days of this order

Hon. J. Brendan Day, U.S.M.J.